

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:20-cv-00082-MR-WCM

GARDNER-WEBB UNIVERSITY,)
)
 Plaintiff,)
)
v.)
)
PRO FORM SPORTS, LLC and)
GARY WILSON)
)
 Defendants.)

ORDER

This matter is before the Court on a Joint Motion to Stay (the “Motion,” Doc. 55) filed by Plaintiff Gardner-Webb University (“Plaintiff”) and Defendant Gary Wilson (“Wilson”).

On or about February 28, 2020, Plaintiff filed a Complaint in the Cleveland County General Court of Justice, Superior Court Division, against Wilson and Defendant Pro Form Sports, LLC (“Pro Form Sports”). Doc. 1-2. The matter was subsequently removed to this Court on April 3, 2020. Doc. 1.

On September 18, 2020, a Pretrial Order and Case Management Plan was entered setting, among other things, a jury trial during the term beginning on November 8, 2021. Doc. 13.

On February 11, 2021, counsel for Pro Form Sports and Wilson sought leave to withdraw. Following a hearing, counsel was allowed to withdraw, but

Pro Form Sports was advised that it could only appear in this matter through counsel. See Doc. 22. Thereafter, a deadline of May 17, 2021 was set for new counsel for Pro Form Sports to appear. Doc. 24.

However, Pro Form Sports failed to retain counsel, and on June 15, 2021, default was entered as to Pro Form Sports. Doc. 38; see also Doc. 37. Relatedly, because Wilson had failed to respond to Plaintiff's motions to compel him to engage in discovery, and it was otherwise indicated that he had abandoned this action, Wilson was ordered to show cause why default should not be entered against him. See Doc. 37.

Wilson, through new counsel, subsequently responded to the show cause order, Doc. 42, and was ordered to respond to Plaintiff's pending motions. See Doc. 28 (Plaintiff's Motion to Deem Requests for Admission Admitted and Compel Defendants to Produce); Doc. 31 (Plaintiff's Motion to Compel Wilson's Attendance at his Deposition); Doc. 33 (Plaintiff's Motion to Amend Case Management Order); Doc. 35 (Plaintiff's Motion for Summary Judgment).

Additionally, on August 17, 2021, Plaintiff filed a Motion for Entry of Default Judgment Against Defendant Pro Form Sports, LLC. Doc. 52.

On August 19, 2021, a mediated settlement conference was conducted, and the Court was advised that a full settlement was reached. Doc. 54.¹ The

¹ The Report of Mediation stated that Pro Form Sports did not appear at mediation. Doc. 54 at 1.

parties were instructed to file an Agreement for Entry of Judgment or a Stipulation of Dismissal within thirty days.

On August 26, 2021, Plaintiff and Wilson filed the instant Motion to Stay. Doc. 55. Therein, these parties represent that they have reached an agreement in principle to “fully settle and resolve this matter,” and request that the deadlines in this case be stayed for a period of sixty (60) days “to allow the Parties to finalize the settlement agreement before filing a stipulation of dismissal.” Doc. 55 at 1.

Under these circumstances, a stay of this action is not warranted, though Plaintiff and Wilson will be provided with additional time to complete settlement-related tasks.

IT IS THEREFORE ORDERED that the Joint Motion to Stay is **GRANTED IN PART** as follows:

- (1) The deadline for the parties to file an Agreement for Entry of Judgment, Stipulation of Dismissal, or other appropriate closing document is **EXTENDED** through and including **October 20, 2021**.

(2) The deadline for Defendant Gary Wilson to respond to the Motion for Summary Judgment (Doc. 35) is likewise **EXTENDED** through and including **October 20, 2021**.

(3) Trial in this matter is **RESET** to the January 10, 2022 trial term.

Signed: August 30, 2021

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

